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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-71089; File No. SR-CBOE-2013-119]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the CBSX Fees Schedule December 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 9, 2013, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule of its CBOE Stock Exchange (“CBSX”). The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBSX Fees Schedule provides for different fee tiers for Maker executions in transactions in all other securities priced \$1 or greater depending on the percentage of TCV that the Maker adds of liquidity in a given day.<sup>3</sup> Prior to December 9, 2013, odd lot trades (trades of less than 100 shares) have not been reported by stock exchanges or eligible trade reporting facilities to the Consolidated Tape Administration and UTP Plan, and therefore were not counted, recorded or reported in the trade reports created by those regimes. As such, odd lot trades would not have been counted towards "TCV" by CBSX, as "TCV" is defined as "total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan." Odd lot trades executed by Makers on CBSX, however, did count towards those Makers' percentages of TCV contributed (meaning that such trades helped the Makers as they counted towards their numerators but were not counted in the denominator that determines their percentages).

Beginning on December 9, 2013, odd lot trades will begin to be reported to the Consolidated Tape Administration and UTP Plan, and therefore will be counted, recorded and reported in the trade reports created by those regimes. This means that such trades would be included in the "TCV" denominator. However, CBSX proposes to exclude volume from odd lot

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<sup>3</sup> See CBSX Fees Schedule, Section 1. "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan. Volume from Maker executions in the Select Symbols (priced \$1 or greater) will count towards a market participant's % of TCV.

transactions through January 31, 2014 from the calculation of TCV (and therefore from counting towards the denominator in the calculation of which Maker fee tiers). CBSX publishes the TCV calculation on CBSX's website each day, and would simply subtract odd lot trades from the total volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan. This will give market participants time to adjust their trading behavior to account for the inclusion of odd lot trades in TCV, and can only be of benefit to CBSX market participants (since odd lot trades count towards their percentages (the numerator) of TCV).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>5</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. CBSX believes that the proposed change is reasonable because it can only serve to help market participants have a higher percentage of TCV (and thereby be assessed lower transaction fees). CBSX believes that the proposed change is equitable and not unfairly discriminatory because it will apply to all CBSX market participants. Indeed, not including odd lot trades towards TCV could make it easier for market participants to continue to reach higher volume (and lower fee) tiers, thereby encouraging such market participants to engage in more trading at CBSX. This increased volume and liquidity could benefit all market participants. Further, the exclusion of odd lots from TCV should benefit

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

all market participants by keeping TCV lower, making it easier for all CBSX market participants to reach higher volume (and lower fee) tiers.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBSX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. CBSX does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the lower TCV number (that excludes odd lot transactions) will apply to all market participants. CBSX does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only applies to trading on CBSX. Indeed, this lower TCV number could encourage more trading on CBSX. Further, the proposed change is merely a continuation of the current calculation of TCV. To the extent that the proposed change makes CBSX a more attractive market to market participants at other exchanges, such market participants may elect to become CBSX market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and paragraph (f) of Rule 19b-4<sup>7</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-119 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2013-119. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2013-119 and should be submitted on or before [INSERT DATE 21 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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<sup>8</sup> 17 CFR 200.30-3(a)(12).